

Act and Federal regulations, as included in the HUD-approved operating budgets. Examples include maintenance and modernization, augmentation of operating reserves, protective services, and resident services. Such use shall not result in the reduction of the operating subsidy otherwise payable to the PHA under 24 CFR part 990.

(5) In connection with any other type of Federal, State, or local housing program for low-income families, as described in the homeownership plan.

#### § 906.16 Replacement housing.

(a) *Replacement requirement.* As a condition for transfer of ownership under a HUD-approved homeownership plan, the PHA must obtain a funding commitment, from HUD or another source, for the replacement of each of the dwellings to be sold under the plan. Replacement housing may be provided by one or any combination of the following methods:

(1) Development by the PHA of additional public housing under 24 CFR part 941 (by new construction or acquisition).

(2) Rehabilitation of vacant public housing owned by the PHA.

(3) Use of five-year, tenant-based certificate or voucher assistance under Section 8 of the Act.

(4) If the homeownership plan is submitted by the PHA for sale to residents through an RMC, resident organization or cooperative association which is otherwise eligible to participate under this part, acquisition of nonpublicly-owned housing units, which the RMC, resident organization or cooperative association will operate as rental housing, comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent.

(5) Any other Federal, State, or local housing program that is comparable, as to housing standards, eligibility and contribution to rent, to the programs referred to in paragraphs (a)(1) through (a)(3) of this section, and provides a term of assistance of not less than five years.

(b) *Funding commitments.* Although a HUD funding commitment is required if the replacement housing requirement is to be satisfied through any of the HUD programs listed in paragraph

(a) of this section, HUD's approval of a Section 5(h) homeownership plan on the expectation that such a funding commitment will be forthcoming shall not constitute a binding obligation to make such a commitment. Where the requirement is to be satisfied under a State or local program, or a Federal program not administered by HUD, a funding commitment shall be required from the proper authority.

(c) *Use of sale proceeds to fund replacement housing.* Sale proceeds that are generated under the homeownership plan may be used under some of the replacement housing options under paragraph (a) of this section (e.g., rehabilitation of vacant public housing units, or an eligible local program). Where a homeownership plan provides for sale proceeds to be used for replacement housing, HUD approval of the plan and execution of the PHA-HUD implementing agreement shall satisfy the funding commitment requirement of paragraph (a) of this section, with regard to the amount of replacement housing to be funded out of sale proceeds.

(d) *Consistency with current housing needs.* Replacement housing may differ from the dwellings sold under the homeownership plan, as to unit sizes or family or elderly occupancy, if the PHA determines that such change is consistent with current local housing needs for low-income families.

(e) *Inapplicability to prior plans.* This section shall not apply to homeownership plans that were submitted to HUD under the Section 5(h) Homeownership Program prior to October 1, 1990.

#### § 906.17 Records, reports, and audits.

The PHA shall be responsible for the maintenance of records (including sale and financial records, which must include information on the racial and ethnic characteristics of the purchasers) for all activities incident to implementation of the HUD-approved homeownership plan. Until all planned sales of individual dwellings have been completed, the PHA shall submit to HUD annual sales reports, in a form prescribed by HUD. The receipt, retention, and expenditure of the sale proceeds shall be covered in the regular independent audits of the PHA's public

## § 906.18

housing operations, and any supplementary audits that HUD may find necessary for monitoring. Where another entity is responsible for sale of individual units, pursuant to § 906.7(b), the PHA must ensure that the entity's responsibilities include proper record-keeping and accountability to the PHA, sufficient to enable the PHA to monitor compliance with the approved homeownership plan, to prepare its reports to HUD, and to meet its audit responsibilities. All books and records shall be subject to inspection and audit by HUD and the General Accounting Office (GAO).

(Approved by the Office of Management and Budget under control number 2577-0201)

### § 906.18 Submission and review of homeownership plan.

Whether to develop and submit a proposed homeownership plan is a matter within the discretion of each PHA. A PHA may initiate a proposal at any time, according to the following procedures:

(a) *Preliminary consultation with HUD staff.* Before submission of a proposed plan, the PHA shall consult informally with the appropriate HUD Field Office to assess feasibility and the particulars to be addressed by the plan.

(b) *Submission to HUD.* The PHA shall submit the proposed plan, together with supporting documentation, in a format prescribed by HUD, to the appropriate HUD Field Office.

(c) *Conditional approval.* Conditional approval may be given, at HUD discretion, where HUD determines that to be justified. For example, conditional HUD approval might be a necessary precondition for the PHA to obtain the funding commitments required to satisfy the requirements for final HUD approval of a complete homeownership plan. Where conditional approval is granted, HUD will specify the conditions in writing.

(Approved by the Office of Management and Budget under control number 2577-0201)

### § 906.19 HUD approval and PHA-HUD implementing agreement.

Upon HUD notification to the PHA that the homeownership plan is approvable (in final form that satisfies all applicable requirements of this

## 24 CFR Ch. IX (4-1-00 Edition)

part), the PHA and HUD will execute a written implementing agreement, in a form prescribed by HUD, to evidence HUD approval and authorization for implementation. The plan itself, as approved by HUD, shall be incorporated in the implementing agreement. Any of the items of supporting documentation may also be incorporated, if agreeable to the PHA and HUD. The PHA shall be obligated to carry out the approved homeownership plan and other provisions of the implementing agreement without modification, except with written approval by HUD.

(Approved by the Office of Management and Budget under control number 2577-0201)

### § 906.20 Content of homeownership plan.

The homeownership plan must address the following matters, as applicable to the particular factual situation:

(a) *Property description.* A description of the property, including identification of the development and the specific dwellings to be sold.

(b) *Repair or rehabilitation.* If applicable, a plan for any repair or rehabilitation required under § 906.6, based on the assessment of the physical condition of the property that is included in the supporting documentation.

(c) *Purchaser eligibility and selection.* The standards and procedures to be used for homeownership applications and the eligibility and selection of purchasers, consistent with the requirements of § 906.8. If the homeownership plan allows application for purchase of vacant units by families who are not presently public housing or Section 8 residents and not already on the PHA's waiting lists for those programs, the plan must include an affirmative fair housing marketing strategy for such families, including specific steps to inform them of their eligibility to apply, and to solicit applications from those in the housing market who are least likely to apply for the program without special outreach.

(d) *Sale and financing.* Terms and conditions of sale and financing (see, particularly, §§ 906.11 through 906.14).

(e) *Future consultation with residents.* A plan for consultation with residents during the implementation stage (See